

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

GIFT TAX REFERENCE No 4 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF GIFT-TAX

Versus

BHANUMATI N SURTI

Appearance:

1. GIFT TAX REFERENCE No. 4 of 1994
MR BB NAIK with MR MANISH R BHATT for Petitioner No. 1
NOTICE UNSERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 08/11/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE D.A.MEHTA)

The following question has been referred at the instance of the Commissioner of Gift-tax for the opinion of this Court:-

" Whether, the Appellate Tribunal is right in law and on facts in reducing the assessed gift to Nil when the Gift-tax Officer had charged gift-tax on the share and profits from M/s.Surti Iron Engineering Company, which according to the assessee had been transferred on account of an overriding title to a trust called "Bhanumati Family Trust ?"

2. The assessment years are 1977-78 and 1978-79.

3. We have heard Mr BB Naik learned counsel for the revenue. Though served, none appears for the assessee.

4. At the time of hearing our attention is invited to the decision of this Court dated 25-9-2001 in Gift Tax Reference No. 1 of 1986 between the same parties. It was fairly conceded by Mr Naik that following the aforesaid decision in assessee's own case, the question referred to us in the present reference requires to be answered in favour of the assessee. For the reasons stated in the earlier decision of this Court in assessee's own case, we answer the question in the affirmative i.e. in favour of the assessee and against the revenue.

5. The Reference stands disposed of accordingly with no order as to costs.

(M.S. Shah,J)

(D.A. Mehta,J)

zgs/-